

REMARKS

Claims 1-25 remain in the application. No claims have been allowed or indicted to be allowable.

In brief review, this application relates to improvements in a toneable duct of the type having a longitudinal wire embedded in the peripheral wall of a cylindrical conduit of plastic material. The wires in adjacent ducts must be connected together, and it is difficult to locate the wires and to free an end portion of the wires by removing plastic material from the duct peripheral wall.

In accordance with the present application, locating the wire is simplified by covering the wire with a plastic material that has a different color or other different visual appearance from the duct plastic material.

Freeing the end portion of a wire is simplified by using a lower density and softer plastic material to cover the wire. The wire covering plastic material is much easier to cut into and remove than the duct plastic material.

Although the plastic materials used for the duct and the wire covering are different by way of color and density, they preferably are compatible so that they crosslink. This insures the integrity of the duct peripheral wall and prevents leakage of moisture through the peripheral wall to the wire. The duct, the wire and the stripe of plastic material that covers the wire preferably are coextruded, although other arrangements are possible.

Original claims 1-16 were rejected under 35 U.S.C. § 102(b) on U.S. Patent No. 5,212,349 to Pelzer. It is plain that Pelzer does not disclose or suggest the concept of using different color plastic materials for the duct and the wire covering stripe to facilitate location of the wire. It also is plain that Pelzer does not disclose or suggest the concept of using a lower

density and softer plastic material to cover the wire so that the wire covering plastic material can easily be cut into and/or removed for accessing the wire.

The rejection of the claims on Pelzer is based on the word "similar" in claim 11 which provides that the material covering the wire is "identical or similar to the material of the duct."

The examiner contends that this claim recitation teaches a person of ordinary skill in the art that the duct and wire covering plastic materials are of different colors and densities.

The only specific disclosure in the Pelzer patent concerning the duct and wire covering plastic materials is in lines 43-47 of column 5:

"It is preferred the duct and filler material which is applied in a heated state to the groove be made of the same synthetic plastic, preferably high density polyethylene HDPE with a copper wire as the detector wire, preferably an enameled copper wire."

There is not even a remote hint in the Pelzer patent that the duct and the wire covering plastic materials could be of different colors and densities. Furthermore, there is not even a remote hint in the Pelzer patent of any way to facilitate locating and accessing the wire.

The Pelzer patent contains no explanation whatsoever as to the meaning of "similar" in claim 11. The dictionary definition of "similar" in the attached appendix indicates that "similar" is "more at SAME;" "having characteristics in common;" "strictly comparable;" "alike in substance or essentials;" "corresponding."

In the further explanation of different synonyms, the dictionary definition provides:

"SIMILAR implies the possibility of being mistaken for each other."

The Pelzer patent not only fails to anticipate the claims under 35 U.S.C. § 102(b), it does not even remotely suggest the claimed improvements to a person of ordinary skill in the art under 35 U.S.C. 103. There is nothing whatsoever in the Pelzer patent that would motivate a person of

ordinary skill in the art to make the duct and wire covering plastic materials in Pelzer of different colors and densities.


FIG. 10 of Pelzer does not disclose or suggest that the duct and wire covering plastic materials have different visual appearances. The use of identical or similar plastic materials means that they could be mistaken for one another, and their appearance would be the same.

Lines 64-68 of column 1 in Pelzer refer to a "softened" wire covering material, not to a "softer" material. As stated by Pelzer in lines 43-47 of column 5, the wire covering material is applied in a heated state. Lines 21 and 22 of column 2 explain that the wire covering filler material "has hardened in the meantime." The only teaching of Pelzer is that the wire covering filler material is melted when extruded into the groove over the wire. There is no teaching that the duct and wire covering materials differ in hardness in the finished duct. When the plastics harden and solidify, they will be of the same hardness because they are the same materials. Pelzer provides no motivation whatsoever to a person of ordinary skill in the art to use duct and wire covering plastic materials of different hardness.

With respect to claims 10-16, Pelzer does not disclose or suggest **coextruding** the duct, the wire and the wire covering stripe. Pelzer discloses alternate procedures for forming a longitudinal wire receiving groove in the duct wall beginning in line 20 of column 8, line 51 of column 10 and line 63 of column 10. Pelzer first forms the duct with a groove, then lays the wire in the groove, and then fills the groove with the wire covering plastic material. There is no disclosure or suggestion of **coextruding** the duct, the wire and the wire covering plastic material as disclosed and claimed in this application. The Pelzer duct is already extruded and solidified before the wire is placed in the duct groove. There is no way that the Pelzer disclosure can be construed as teaching **coextrusion** of the duct, the wire and the wire covering stripe.

In the absence of more pertinent art, this application is now in condition for allowance.

Respectfully submitted,



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Attachment



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